

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

United American Technology, Inc.	:	
	:	
Application for a Certificate of	:	04-0383
Interexchange Authority to Operate	:	
as a Reseller of Telecommunications	:	
Services in the State of Illinois.	:	

ORDER

By the Commission:

On June 16, 2004, United American Technology, Inc. (UAT), filed a verified application with the Illinois Commerce Commission for a certificate of service authority to provide resold interexchange telecommunications services throughout the state of Illinois, in accordance with Section 13-404 of the Illinois Public Utilities Act (Act). 220 ILCS 5/13-404. The Applicant also requested the Commission to waive the Applicant's obligation to comply with the requirements of three regulations in Title 83 of the Illinois Administrative Code. No petitions to intervene were filed.

After giving notice as required by the Act and its implementing regulations, an Administrative Law Judge conducted an evidentiary hearing on this application on June 16, 2004, at the Commission offices in Chicago, Illinois.

The verification attesting to the truthfulness of the application was sworn to by Tom Anderson, who identified himself as UAT's chief executive officer. The Applicant appeared at the hearing by counsel and presented evidence through testimony by Anderson. The Applicant also filed prepared written testimony by Anderson in support of its application, which was admitted into evidence. At the conclusion of the hearing, the evidentiary record in this docket was marked *heard and taken*.

The Applicant seeks authority to offer presubscribed resale of interexchange 1+ equal access outbound service, 800 inbound interexchange service, and calling card service to customers throughout the state of Illinois.

UAT is an Oklahoma corporation, incorporated on October 28, 2003, and is authorized to transact business in Illinois.

According to the Applicant, eleven other states already have granted it authority to provide the same resold interexchange services it seeks to provide in Illinois. (Those states are: Florida; Georgia; Indiana; Kentucky; Michigan; Montana; New Hampshire;

New Jersey; Pennsylvania; Utah; and Washington.) The Applicant reported it has telecommunication carrier requests pending in thirty-five other states. UAT never has been denied a telecommunications services certificate; nor has it ever had a telecommunications certification revoked or suspended. Anderson said no complaints have been filed and no judgments have been levied against UAT in any jurisdiction.

The Applicant identified a twenty-four-hour toll-free telephone and address that would be supplied to customers who want to make complaints or have other service needs.

Having considered the Applicant's ownership structure, business status in other states, and provisions for customer service, we now turn to the Public Utilities Act requirement that a carrier possess sufficient technical, managerial, and financial resources and abilities to provide telecommunications services. 220 ILCS 5/13-404.

Anderson testified the Applicant would offer its resold interexchange services by purchasing the services of telecommunications services carriers Qwest Communications and Global Crossing.

As evidence of its technical and managerial skills, the Applicant filed resumes of witness Tom Anderson, its chief executive officer, and John Bachman, its president. According to Anderson's resume, he has more than ten years of management experience in the telecommunications industry, including director of operations for one company, and vice president of sales for another.

As the founder and president of UAT, John Bachman is responsible for overseeing and managing the day-to-day business of the company. His resume stated he has more than twenty-five years' experience in establishing and managing several businesses, including Media Partners of America, an Oklahoma advertising company, and the hearing aid industry.

As for financial resources, the Applicant submitted an exhibit consisting of an unaudited balance sheet dated December 31, 2003, and an income statement for the twelve-month period ending December 31, 2003, reflecting assets substantially exceeding liabilities.

The resumes and financial information submitted by the Applicant established the company has sufficient technical, managerial, and financial resources and abilities to provide resold interexchange 1+ outbound service, 800 inbound interexchange service, and calling card service telecommunications services.

The Applicant requested the Commission waive its obligation to comply with three regulations in the Administrative Code that ordinarily apply to telecommunication carriers authorized to do business in Illinois: Parts 250; 710; and 735. 83 Ill. Adm. Code.

Section 13-402 of the Act authorizes waiver of regulations when two conditions are met. First, the waiver must reduce the economic burdens of regulation on a carrier. Second, the waiver must not be inconsistent with the law or the purposes and policies of the telecommunications article of the Act. 220 ILCS 5/13-402. In addition, the Commission has discretion to adopt reasonable rules and to alter them in the exercise of its powers. 220 ILCS 5/10-101. Applying these principles, we conclude that the Applicant's obligation to comply with parts 250, 710, and 735 should be waived.

Part 250 of the Administrative Code requires carriers to maintain in the state of Illinois all books, accounts, papers, records and memoranda they employ in their uniform classification of accounts or use in connection with the regulated business they conduct in this state, except as the Commission may provide. 83 Ill. Adm. Code, Sec. 250.20; implementing 220 ILCS Section 5-106, as applied to telecommunications services under Sections 4-101, 4-201, and 13-101. The Applicant now maintains its records at its office in Oklahoma City, Oklahoma, and requests permission to keep them there, instead of moving them to Illinois. The Applicant makes this request to avoid the expense of establishing an office in Illinois.

Part 710 prescribes a uniform system of accounts for telecommunications carriers' financial records. Ill. Adm. Code Part 710. The Applicant requested a waiver of Part 710's requirements to avoid the expense and effort of establishing and maintaining a new set of financial records using Part 710's system of accounts.

Part 735 of the Code is entitled "Procedures Governing the Establishment of Credit, Billing Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois." The Applicant asserts this regulation of *local* exchange is inapplicable to the *interexchange* services it plans to provide. Part 735, the Applicant contends, addresses local exchange carrier procedures, procedures not employed by interexchange service providers.

In addition to the Public Utilities Act's waiver provision, the Commission may grant a variance from Part 735 when the Commission finds that the provision from which the variance is granted is not statutorily mandated; no party will be injured by the variance; and the rule from which the variance is granted would be unreasonable or unnecessarily burdensome if applied. 83 Ill. Adm. Code Sec. 735.50. The Applicant's Part 735's variance request meets each of these requirements. The company seeks authority to offer primarily interexchange services, not collecting deposits, issuing telephone directories, or engaging in any of the other activities associated with the provisioning of local services addressed in Part 735. The provisions of Part 735 are not statutorily mandated for interexchange carriers. Enforcing such a regulation under these circumstances would be unreasonable.

The Commission also takes administrative notice of its past orders granting waivers of Parts 250.20, 710, and variances from Part 735. We consistently have granted these waivers and variances to other carriers seeking authority to offer resold telecommunications services, where no countervailing need for these regulations has

been demonstrated. See, e.g., Application of Epixtar Communications Corp., Docket 03-0293 (October 8, 2003); and Application of ACN Communication Services, Docket 00-0039 (March 15, 2000). If overriding needs for the regulations should appear, we retain the discretion to rescind the waivers and variance we grant here.

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Applicant United American Technology, Inc., is an Oklahoma corporation authorized to transact business in Illinois is a telecommunications carrier, as that term is defined in Section 13-202 of the Illinois Public Utilities Act (Act), and has filed an application under Section 13-404 of the Act for a certificate of authority to operate as a reseller of 1+ outbound service, 800 inbound interexchange service, and calling card interexchange telecommunications services throughout Illinois;
- (2) the Commission has jurisdiction over the Applicant and the subject matter of this proceeding, in accordance with Sections 4-101, 4-201, 13-101, 13-203 and 13-404 of the Act;
- (3) as required under Section 13-404 of the Act, the Applicant has demonstrated it possesses sufficient technical, financial, and managerial resources and abilities required to operate as an interexchange telecommunications carrier in the state of Illinois;
- (4) in accordance with Sections 13-501 and 13-502 of the Act, the Applicant should file with the Chief Clerk of the Commission a tariff consisting of its rates, rules, and regulations, before commencing service;
- (5) the Applicant should establish and maintain books of account for its telecommunications services in the state of Illinois, including revenues from its services subject to the public utility revenue tax, which are segregated from other business activities not regulated by the Commission;
- (6) the Applicant should be granted a waiver from the requirement of Part 250 of Title 83 of the Illinois Administrative Code that it maintain all its books, accounts, papers, records, and memoranda it employs in its uniform classification of accounts or uses in connection with the telecommunications services it conducts in Illinois, until determined otherwise, on the condition that the Applicant promptly reimburse Commission for the reasonable expenses associated with Commission inspections or audits of these records, in accordance with Section 5-106 of the Act;

- (7) the Applicant should be granted a waiver from the requirement of Part 710 of Title 83 of the Administrative Code that it adopt the Code's uniform system of accounts for telecommunications carriers' financial records, until determined otherwise, on the condition that the Applicant maintain its records in accordance with generally accepted accounting principles that are equivalent to Part 710's system of accounts;
- (8) the Applicant should be granted a variance from the requirement of Part 735 of Title 83 of the Administrative Code that it adopt procedures governing establishing credit, billing deposits, termination of service, and issuance of telephone directories, until determined otherwise.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that United American Technology, Inc., is granted a certificate of interexchange services authority to operate as a reseller of telecommunications services in the state of Illinois, in accordance with the Public Utilities Act. 220 ILCS 5, Sec.13-404.

IT IS FURTHER ORDERED that the certificate shall read, as follows:

CERTIFICATE OF SERVICE AUTHORITY

IT IS HEREBY CERTIFIED that United American Technology, Inc., is authorized, pursuant to Section 13-404 of the Public Utilities Act, to provide resold interexchange telecommunications services within the State of Illinois.

IT IS FURTHER ORDERED that, before commencing the telecommunications services authorized by this certificate, United American Technology, Inc., shall file with the Chief Clerk of the Commission a tariff in such form as prescribed by the Chief Clerk, consisting of its rates, rules, and regulations, as required under Sections 13-501 and 13-502 the Public Utilities Act. This tariff shall not be effective until it has been filed properly with the Chief Clerk.

IT IS FURTHER ORDERED that, as a condition of this certificate, United American Technology, Inc., shall establish and maintain books of account for its telecommunications services in the state of Illinois, including revenues from its services subject to the public utility revenue tax, which are segregated from other business activities not regulated by the Commission.

IT IS FURTHER ORDERED that United American Technology, Inc., shall immediately file with the Chief Clerk of the Commission notice of any change in the address where it maintains its books, accounts, papers, records, and memoranda it employs in its uniform classifications of accounts or uses in connection with the telecommunications services business it conducts in Illinois, as required under Section 5-106 of the Public Utilities Act.

IT IS FURTHER ORDERED that United American Technology, Inc., is granted waivers from Section 250.20 of Title 83 of Illinois Administrative Code (carrier's business and financial records to be maintained in Illinois) and Part 710 (prescribed uniform system of accounts), until determined otherwise. United American Technology, Inc., is granted a variance from Title 83 of Illinois Administrative Code, Part 735 (telecommunications carrier procedures for credit; billing deposits; terminating service; and telephone directories), until determined otherwise.

IT IS FURTHER ORDERED that this order is final, subject to the provisions of Section 10-113 of the Public Utilities Act (Commission authority to rescind, amend, or alter orders) and Title 83 of the Illinois Administrative Code, Section 200.880 (rehearing and appeal procedures). This order is not subject to the Illinois Administrative Review Law, 735 ILCS, Article III.

By Order of the Commission this 21st day of July, 2004.

(SIGNED) EDWARD C. HURLEY

Chairman